

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARK PHILLIP SCHMIDT,

Plaintiff,

vs.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No.: 2:15-cv-2001-GMN-CWH

ORDER

Pending before the Court is the Report and Recommendation entered by Magistrate Judge Carl W. Hoffman on December 7, 2015, recommending the dismissal of pro se Plaintiff Mark Phillip Schmidt's ("Plaintiff's") case for failure to file an amended complaint. (ECF No. 4). Plaintiff timely filed an objection. (ECF No. 6).

A party may file specific written objections to the findings and recommendations of a United States Magistrate Judge made pursuant to Local Rule IB 1-4. 28 U.S.C. § 636(b)(1)(B); D. Nev. R. IB 3-2. Upon the filing of such objections, the Court must make a *de novo* determination of those portions of the Report to which objections are made. *Id.* The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1); D. Nev. IB 3-2(b).

Plaintiff's objection focuses on his difficulty as a pro se plaintiff in understanding the federal court system. (Obj., ECF No. 6). The Court construes pro se litigants' filings liberally, holding them to standards less stringent than formal pleadings drafted by attorneys. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007). Nonetheless, pro se parties must still abide by the deadlines imposed by the Court. Here, Plaintiff untimely filed his Amended Complaint only after Judge Hoffman issued his Report and Recommendation to dismiss the case and about

1 three weeks after the Court's deadline in its Order granting Plaintiff leave to file an amended
2 complaint. (Amended Compl., ECF No. 5); (Order 3, ECF No. 2).

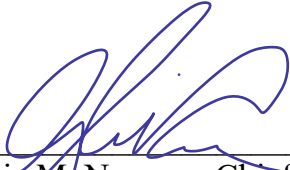
3 Accordingly, for good cause appearing, the Court overrules Plaintiff's objection and
4 adopts the Report and Recommendation dismissing the case without prejudice.¹

5 **IT IS HEREBY ORDERED** that Judge Hoffman's Report and Recommendation (ECF
6 No. 4) is **ACCEPTED and ADOPTED** to the extent that it is not inconsistent with this Order.

7 **IT IS FURTHER ORDERED** that Plaintiff's case is **DISMISSED without prejudice**.

8 The Clerk of the Court shall close the case.

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10 **DATED** this 1 day of November, 2016.

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14 Gloria M. Navarro, Chief Judge
15 United States District Court
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24 ¹ By dismissing without prejudice, the Court allows Plaintiff to reassert his claims by filing a new lawsuit with
25 the Court. Should Plaintiff wish to file his claims again as a new case, it is recommended that Plaintiff use the
Complaint for Review of Social Security Decision, Pro Se Form 13, available on the United States Courts'
website at <http://www.uscourts.gov/forms/pro-se-forms/complaint-review-social-security-decision> (last visited
November 1, 2016).